

AMENDED IN ASSEMBLY MAY 7, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 948**

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**Introduced by Assembly Member Olsen**

February 22, 2013

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An act to amend Section 47614.5 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL’S DIGEST

AB 948, as amended, Olsen. Charter schools: school facilities: Charter School Facility Grant Program.

Existing law requires the State Department of Education to administer the Charter School Facility Grant Program, provides that the grant program is intended to provide assistance with facilities rent and lease costs for pupils in charter schools, and states the intent of the Legislature that not less than \$18,000,000 annually be appropriated for purposes of the grant program. Existing law requires, subject to the annual Budget Act, eligible schools to receive an amount up to \$750 per unit of average daily attendance, as specified, to provide an amount of up to, but not more than, 75% of the annual facilities rent and lease costs for the charter school. Existing law requires the department, among other requirements, to inform charter schools of the grant program and to determine grant program eligibility based on specified factors, including, among other factors, a charter school’s preference in admissions, the geographic location of the charter schoolsite, and pupil eligibility for free and reduced-price meals, as specified. Existing law prohibits funds appropriated for purposes of the grant program from being apportioned for units of average daily attendance generated through nonclassroom-based instruction, as defined, requires that funds

appropriated for purposes of the grant program be used for costs associated with facilities rents and leases, and requires an existing charter school that is relocating to give an admissions preference to pupils who reside in the elementary attendance area into which the charter school is relocating in specified circumstances.

~~This bill would instead provide that the grant program is intended to provide assistance with facilities costs for pupils in charter schools and would require, subject to the annual Budget Act, an eligible charter school to receive the lesser of the actual eligible annual facility costs, \$750 for a classroom-based charter school, or \$375 for a nonclassroom-based charter school. The bill would also require the department to provide a grant program application to charter schools by July 1 of each fiscal year and would repeal the requirement that grant program eligibility be determined based on, among other factors, a charter school's preference in admissions. The bill would require eligibility for the grant program to be expanded, as specified, if funds remain after charter schools that meet the existing free and reduced-price meals threshold are funded, would require funds appropriated for purposes of the grant program to be used for costs associated with facilities rents, leases, purchases, and facility-related debt service, and would repeal the requirement that a charter school that is relocating give an admissions preference to pupils who reside in the elementary attendance area into which the charter school is relocating in specified circumstances. The bill would specify the conditions under which funds appropriated for purposes of the grant could be used for the purchase of a facility and its related debt service. The bill would repeal the Legislature's statement of intent that not less than \$18,000,000 annually be appropriated for purposes of the grant program and would require the annual audit of a charter school to include specified information related to the grant program. The bill would provide that, with respect to this program, charter schools would be subject to the provision that generally imposes the requirement of an annual audit on local educational agencies.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 47614.5 of the Education Code is amended  
2     to read:

1 47614.5. (a) The Charter School Facility Grant Program is  
2 hereby established, and shall be administered by the department.  
3 The grant program is intended to provide assistance with facilities  
4 rent and lease costs for pupils in charter schools.

5 (b) Subject to the annual Budget Act, eligible schools shall  
6 receive an amount of up to, but not more than, seven hundred fifty  
7 dollars (\$750) per unit of average daily attendance, as certified at  
8 the second principal apportionment, to provide an amount of up  
9 to, but not more than, 75 percent of the annual facilities rent and  
10 lease costs for the charter school. In any fiscal year, if the funds  
11 appropriated for the purposes of this section by the annual Budget  
12 Act are insufficient to *fully* fund the approved amounts ~~fully~~, the  
13 Superintendent shall apportion the available funds on a pro rata  
14 basis.

15 (c) For purposes of this section, the department shall do all of  
16 the following:

17 (1) Inform charter schools of the grant program.

18 (2) Upon application by a charter school, determine eligibility,  
19 based on the geographic location of the charter schoolsite, pupil  
20 eligibility for free or reduced price meals, and a preference in  
21 admissions, as appropriate. Eligibility for funding shall not be  
22 limited to the grade level or levels served by the school whose  
23 attendance area is used to determine eligibility. Charter schoolsites  
24 are eligible for funding pursuant to this section if the charter  
25 schoolsite meets either of the following conditions:

26 (A) The charter schoolsite is physically located in the attendance  
27 area of a public elementary school in which 70 percent or more of  
28 the pupil enrollment is eligible for free or reduced priced meals  
29 and the schoolsite gives a preference in admissions to pupils who  
30 are currently enrolled in that public elementary school and to pupils  
31 who reside in the elementary school attendance area where the  
32 charter schoolsite is located.

33 (B) Seventy percent or more of the pupil enrollment at the  
34 charter schoolsite is eligible for free or reduced price meals.

35 (C) *In any year in which additional funds remain after state*  
36 *and federal funds have been allocated to applicants that meet the*  
37 *eligibility criteria in subparagraph (A) or (B), the department shall*  
38 *expand eligibility to additional schools that are eligible pursuant*  
39 *to subparagraph (B) by reducing the free and reduced-price meals*

1 *threshold one percentage point at a time, but in no case below 50*  
2 *percent.*

3 (3) Inform charter schools of their grant eligibility.

4 (4) Allocate funding to charter schools for eligible expenditures  
5 in a timely manner.

6 ~~(5) No later than June 30, 2005, report to the Legislature on the~~  
7 ~~number of charter schools that have participated in the grant~~  
8 ~~program pursuant to the expanded eligibility prescribed in~~  
9 ~~paragraph (2). In addition, the report shall provide~~  
10 ~~recommendations and suggestions on improving the grant program.~~

11 (d) Funds appropriated for purposes of this section shall not be  
12 apportioned for any of the following:

13 (1) Units of average daily attendance generated through  
14 nonclassroom-based instruction as defined by paragraph (2) of  
15 subdivision (d) of Section 47612.5 or that does not comply with  
16 conditions or limitations set forth in regulations adopted by the  
17 state board pursuant to this section.

18 (2) Charter schools occupying existing school district or county  
19 office of education facilities.

20 (3) Charter schools receiving reasonably equivalent facilities  
21 from their chartering authority pursuant to Section 47614.

22 (e) Funds appropriated for purposes of this section shall be used  
23 for costs associated with facilities rents and leases, consistent with  
24 the definitions used in the California School Accounting Manual.  
25 These funds also may be used for costs, including, but not limited  
26 to, costs associated with remodeling buildings, deferred  
27 maintenance, initially installing or extending service systems and  
28 other built-in equipment, and improving sites.

29 (f) *Funds appropriated for purposes of this section may also be*  
30 *used for the purchase of a facility and its related debt service under*  
31 *the following conditions:*

32 (1) *The facility purchased shall be used by the charter school*  
33 *exclusively to provide direct classroom instruction.*

34 (2) *The facility shall meet the standards established pursuant*  
35 *to Article 3 (commencing with Section 17280) of Chapter 3 of Part*  
36 *10.5 of Division 1 of Title 1.*

37 (3) *If the charter school occupying a facility funded pursuant*  
38 *to this section ceases to utilize the facility for the purposes for*  
39 *which funds were provided, the charter school shall dispose of the*  
40 *facility in the manner specified for disposing of charter school*

1 *facilities pursuant to Section 17078.62, except that references in*  
2 *that section to the State Allocation Board shall mean the*  
3 *department with respect to this subdivision.*

4 ~~(f)~~

5 (g) If an existing charter school located in an elementary  
6 attendance area in which less than 50 percent of pupil enrollment  
7 is eligible for free or reduced price meals relocates to an attendance  
8 area identified in paragraph (2) of subdivision (c), admissions  
9 preference shall be given to pupils who reside in the elementary  
10 school attendance area into which the charter school is relocating.

11 ~~(g)~~

12 (h) The Superintendent annually shall report to the state board  
13 regarding the use of funds that have been made available during  
14 the fiscal year to each charter school pursuant to the grant program.

15 ~~(h) It is the intent of the Legislature that not less than eighteen~~  
16 ~~million dollars (\$18,000,000) annually be appropriated for purposes~~  
17 ~~of the grant program on the same basis as other elementary and~~  
18 ~~secondary education categorical programs.~~

19 (i) The Superintendent shall annually allocate the facilities grants  
20 to eligible charter schools no later than October 1 of each fiscal  
21 year or 90 days after enactment of the annual Budget Act,  
22 whichever is later, for the current school year rent and lease costs.  
23 However, the department shall first use the funding appropriated  
24 for this program to reimburse eligible charter schools for  
25 unreimbursed rent or lease costs for the prior school year.

26 (j) *Notwithstanding any other law, a charter school shall be*  
27 *subject, with regard to this section, to audits conducted pursuant*  
28 *to Section 41020.*

29 ~~SECTION 1. Section 47614.5 of the Education Code is~~  
30 ~~amended to read:~~

31 ~~47614.5. (a) The Charter School Facility Grant Program is~~  
32 ~~hereby established and shall be administered by the department.~~  
33 ~~The grant program is intended to provide assistance with facilities~~  
34 ~~costs for pupils in charter schools.~~

35 ~~(b) (1) Subject to the annual Budget Act, eligible charter schools~~  
36 ~~shall receive the lesser of the following:~~

37 ~~(A) The actual eligible annual facility costs.~~

38 ~~(B) Seven hundred fifty dollars (\$750) per unit of average daily~~  
39 ~~attendance for a classroom-based charter school as defined in~~  
40 ~~subdivision (c) of Section 47612.5.~~

~~(C) Three hundred seventy-five dollars (\$375) per unit of average daily attendance for a nonclassroom-based charter school as defined in subdivision (c) of Section 47612.5.~~

~~(2) The initial payment shall be based upon prior year average daily attendance, as certified at the second principal apportionment, for a charter school that operated in the prior year, and shall be based upon the average daily attendance approved pursuant to Section 47652 for a charter school in its first year of operation. The final payment shall be based upon average daily attendance, as certified at the second principal apportionment.~~

~~(3) In any fiscal year, if the funds appropriated for purposes of this section by the annual Budget Act are insufficient to fund the approved amounts fully, the Superintendent shall apportion the available funds on a pro rata basis.~~

~~(e) For purposes of this section, the department shall do all of the following:~~

~~(1) Inform charter schools of, and provide charter schools with an application for, the grant program by July 1 of each year.~~

~~(2) Upon application by a charter school, determine eligibility, based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced-price meals. Eligibility for funding shall not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. A charter schoolsite is eligible for funding pursuant to this section if the charter schoolsite meets any of the following conditions:~~

~~(A) The charter schoolsite is physically located in the attendance area of a public elementary school in which 70 percent or more of the pupil enrollment is eligible for free or reduced-price meals and the schoolsite gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located.~~

~~(B) Seventy percent or more of the pupil enrollment at the charter schoolsite is eligible for free or reduced-price meals.~~

~~(C) In any year in which additional funds remain after funds have been allocated to eligible applicants that meet the eligibility criteria in subparagraph (A) or (B), the department shall expand eligibility to additional charter schools by reducing the free and reduced-price meals threshold in subparagraphs (A) and (B) one percentage point at a time, until all available funds are allocated.~~

1 ~~(3) Inform charter schools of their grant eligibility.~~

2 ~~(4) Apportion funding to charter schools for eligible~~  
3 ~~expenditures in a timely manner in accordance with subdivision~~  
4 ~~(g).~~

5 ~~(d) Funds appropriated for purposes of this section shall not be~~  
6 ~~apportioned for either of the following:~~

7 ~~(1) Facilities costs associated with occupying existing school~~  
8 ~~district or county office of education facilities if the school district~~  
9 ~~or county office of education is otherwise required to provide the~~  
10 ~~charter school with facilities in accordance with Section 47614.~~

11 ~~(2) Facilities costs associated with a charter school occupying~~  
12 ~~reasonably equivalent facilities from a school district pursuant to~~  
13 ~~Section 47614.~~

14 ~~(e) Funds appropriated for purposes of this section shall be used~~  
15 ~~for costs associated with facilities rents, leases, purchases, and~~  
16 ~~debt service related to facilities, consistent with the definitions~~  
17 ~~used in the California School Accounting Manual. The funds~~  
18 ~~appropriated for purposes of this section also may be used for~~  
19 ~~costs, including, but not limited to, costs associated with~~  
20 ~~remodeling buildings, deferred maintenance, initially installing or~~  
21 ~~extending service systems and other built-in equipment, and~~  
22 ~~improving sites.~~

23 ~~(f) The Superintendent annually shall report to the state board~~  
24 ~~regarding the use of funds that have been made available during~~  
25 ~~the fiscal year to each charter school pursuant to the grant program.~~

26 ~~(g) The Superintendent shall annually apportion an initial~~  
27 ~~payment for the facilities grants to eligible charter schools no later~~  
28 ~~than October 1 of each fiscal year or 90 days after enactment of~~  
29 ~~the annual Budget Act, whichever is later. The initial payment~~  
30 ~~shall be at least 75 percent of the eligible facilities costs estimated~~  
31 ~~pursuant to subdivision (b). The final payment shall be apportioned~~  
32 ~~on or before August 1 of the year following the fiscal year in which~~  
33 ~~the costs were incurred and shall equal the difference between the~~  
34 ~~actual total eligible facilities costs, as determined pursuant to~~  
35 ~~subdivision (b), and the initial payment. However, the department~~  
36 ~~shall first use the funding appropriated for this program to~~  
37 ~~reimburse eligible charter schools for unreimbursed rent or lease~~  
38 ~~costs for the prior school year.~~

39 ~~(h) Eligibility for grant program funds, and the amount of grant~~  
40 ~~program funds received by a charter school pursuant to this section~~

- 1 shall be included in the scope of the annual, independent financial
- 2 audit of the charter school, in accordance with subparagraph (I)
- 3 of paragraph (5) of subdivision (b) of Section 47605.